

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

PEOPLE FOR THE ETHICAL TREATMENT §  
OF ANIMALS, INC., §  
*Plaintiff,* §

v. §

M. KATHERINE BANKS, §  
*Defendant.* §

CIVIL ACTION NO. 4:20-CV-02913

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**DECLARATION OF KRISTA BEREND**

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Krista Berend declares:

1. I am the Director of Social Media for Texas A&M University (“TAMU”).
2. In this capacity, I manage social media accounts for TAMU itself. Thus, I am familiar with TAMU’s policies, conduct, and capabilities with respect to comments posted on TAMU’s social media sites.
3. I do not manage the social media accounts for TAMU’s College of Veterinary Medicine & Biomedical Services.
4. TAMU maintains a Texas A&M Facebook Usage Policy (“TAMU’s Social Media Policy”), which governs what comments on TAMU’s Facebook pages are subject to removal. A copy of TAMU’s Social Media Policy is publicly available on TAMU’s website.<sup>1</sup>

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<sup>1</sup> See Texas A&M Facebook Usage Policy, TEXAS A&M UNIVERSITY, <https://www.tamu.edu/statements/facebook-usage-policy.html>.

5. TAMU's Social Media Policy states that "[c]omments must be directly related to the topic of the original post from this page or may be removed."<sup>2</sup> There are no listed penalties for violations of this policy other than removal of the comments at issue.<sup>3</sup>

6. In early May 2020, PETA posted thousands of spam messages to graduation celebration videos being livestreamed on TAMU's Facebook page and YouTube page (the "May 2020 incident").

7. As to the Facebook video, TAMU moderators had two main options with respect to a viewer's comment that violated TAMU's Social Media Policy: (1) "delete" the comment or (2) "hide" the comment.

8. Generally speaking, "hidden" comments can be viewed by the commenter and the commenter's Facebook "friends," but other users would not be able to see those comments. Hidden comments can be "unhidden" by TAMU moderators at any time.

9. But when a comment is "deleted," that means the comment is wholly removed from the video; even the commenter's friends cannot see the deleted comment. Deleted comments cannot be "undeleted" by TAMU moderators.

10. During the May 2020 incident, with respect to the May 2020 livestreamed video on TAMU's Facebook page, TAMU moderators deleted (as opposed to hid) those comments that violated TAMU's Social Media Policy. Thus, TAMU does not have the power to restore PETA's deleted comments with respect to the graduation celebration video on TAMU's Facebook page.

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<sup>2</sup> *Id.*

<sup>3</sup> *See id.*

11. With respect to the May 2020 video on TAMU's YouTube page, the livestreamed version of the graduation celebration video was subsequently deleted after it aired due to technical difficulties, as YouTube uploaded only half of the livestream to TAMU's YouTube page upon the stream ending. A full version of the livestream was uploaded instead as a YouTube upload in place of the YouTube livestream.

12. An upload is a completed video; a video file (most commonly an .mp4) that is directly uploaded into YouTube and becomes a YouTube video. A livestream is a live broadcast that is shared on YouTube through a camera or encoder.

13. In this case, TAMU had no video file yet that it could upload directly since the video was being created live on the spot, but TAMU's broadcast crew was saving the video as it aired. There is an option to save a livestream to your channel once you end a livestream, which TAMU usually does and did once this particular stream ended. However, since a technical glitch on YouTube's end caused only half of the livestream to upload to TAMU's channel, TAMU deleted the broadcasted livestream version of the graduation celebration video and instead uploaded an .mp4 recording of it that TAMU's broadcast crew saved as they streamed it. This .mp4 broadcast did not have the comments to the livestream. Given the circumstances, TAMU does not have the power to restore comments made to the deleted YouTube livestream video of the May 2020 graduation celebration.

14. TAMU moderators also had the option to permanently block users from its social media sites. TAMU did not permanently block any of the PETA commentators due to their conduct during the May 2020 incident.

15. I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 28, 2021

  
Krista Berend